

MODIFICATIONS TO TAX

2019 GENERAL SESSION

STATE OF UTAH

LONG TITLE**General Description:**

This bill modifies the Corporate Franchise and Income Taxes code and the Individual Income Tax Act by amending provisions relating to certain income tax rates and tax credit calculations.

Highlighted Provisions:

This bill:

- ▶ amends the corporate franchise and income tax rate and the individual income tax rate;
- ▶ amends the calculation of certain tax credits to match the applicable income tax rate; and
- ▶ makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides retrospective operation.

Utah Code Sections Affected:**AMENDS:**

- 59-7-104**, as last amended by Laws of Utah 2018, Chapter 456
- 59-7-201**, as last amended by Laws of Utah 2018, Chapter 456
- 59-7-610**, as last amended by Laws of Utah 2015, Chapter 283
- 59-7-620**, as last amended by Laws of Utah 2017, Chapter 222
- 59-10-104**, as last amended by Laws of Utah 2018, Chapter 456
- 59-10-1007**, as last amended by Laws of Utah 2015, Chapter 283
- 59-10-1017**, as last amended by Laws of Utah 2017, Chapter 389
- 59-10-1017.1**, as enacted by Laws of Utah 2017, Chapter 389
- 59-10-1022**, as enacted by Laws of Utah 2008, Chapter 389
- 59-10-1023**, as enacted by Laws of Utah 2008, Chapter 389

33 **59-10-1028**, as last amended by Laws of Utah 2012, Chapter 399

34 **59-10-1035**, as last amended by Laws of Utah 2017, Chapter 222

35 **59-10-1036**, as enacted by Laws of Utah 2016, Chapter 55

36

37 *Be it enacted by the Legislature of the state of Utah:*

38 Section 1. Section **59-7-104** is amended to read:

39 **59-7-104. Tax -- Minimum tax.**

40 (1) Each domestic and foreign corporation, except a corporation that is exempt under
41 Section 59-7-102, shall pay an annual tax to the state based on the corporation's Utah taxable
42 income for the taxable year for the privilege of exercising the corporation's corporate franchise
43 or for the privilege of doing business in the state.

44 (2) The tax shall be [~~4.95%~~] 4.95% of a corporation's Utah taxable income.

45 (3) The minimum tax a corporation shall pay under this chapter is \$100.

46 Section 2. Section **59-7-201** is amended to read:

47 **59-7-201. Tax -- Minimum tax.**

48 (1) There is imposed upon each corporation, except a corporation that is exempt under
49 Section 59-7-102, a tax upon the corporation's Utah taxable income for the taxable year that is
50 derived from sources within this state other than income for any period that the corporation is
51 required to include in the corporation's tax base under Section 59-7-104.

52 (2) The tax imposed by Subsection (1) shall be [~~4.95%~~] 4.95% of a corporation's Utah
53 taxable income.

54 (3) In no case shall the tax be less than \$100.

55 Section 3. Section **59-7-610** is amended to read:

56 **59-7-610. Recycling market development zones tax credit.**

57 (1) For taxable years beginning on or after January 1, 1996, a business operating in a
58 recycling market development zone as defined in Section 63N-2-402 may claim a tax credit as
59 provided in this section.

60 (a) (i) There shall be allowed a nonrefundable tax credit of [~~5%~~] 4.95% of the purchase
61 price paid for machinery and equipment used directly in:

62 (A) commercial composting; or

63 (B) manufacturing facilities or plant units that:

(I) manufacture, process, compound, or produce recycled items of tangible personal property for sale; or

(II) reduce or reuse postconsumer waste material.

(ii) The Governor's Office of Economic Development shall certify that the machinery and equipment described in Subsection (1)(a)(i) are integral to the composting or recycling process:

(A) on a form provided by the commission; and

(B) before a taxpayer is allowed a tax credit under this section.

(iii) The Governor's Office of Economic Development shall provide a taxpayer seeking to claim a tax credit under this section with a copy of the form described in Subsection (1)(a)(ii).

(iv) The taxpayer described in Subsection (1)(a)(iii) shall retain a copy of the form received under Subsection (1)(a)(iii).

(b) There shall be allowed a nonrefundable tax credit equal to 20% of net expenditures up to \$10,000 to third parties for rent, wages, supplies, tools, test inventory, and utilities made by the taxpayer for establishing and operating recycling or composting technology in Utah, with an annual maximum tax credit of \$2,000.

(2) The total nonrefundable tax credit allowed under this section may not exceed 40% of the Utah income tax liability of the taxpayer prior to any tax credits in the taxable year of purchase prior to claiming the tax credit authorized by this section.

(3) (a) Any tax credit not used for the taxable year in which the purchase price on composting or recycling machinery and equipment was paid may be carried over for credit against the business' income taxes in the three succeeding taxable years until the total tax credit amount is used.

(b) Tax credits not claimed by a business on the business' state income tax return within three years are forfeited.

(4) The commission shall make rules governing what information shall be filed with the commission to verify the entitlement to and amount of a tax credit.

(5) (a) Notwithstanding Subsection (1)(a), for taxable years beginning on or after January 1, 2001, a taxpayer may not claim or carry forward a tax credit described in Subsection (1)(a) in a taxable year during which the taxpayer claims or carries forward a tax credit under

95 Section 63N-2-213.

96 (b) For a taxable year other than a taxable year during which the taxpayer may not
97 claim or carry forward a tax credit in accordance with Subsection (5)(a), a taxpayer may claim
98 or carry forward a tax credit described in Subsection (1)(a):

99 (i) if the taxpayer may claim or carry forward the tax credit in accordance with
100 Subsections (1) and (2); and

101 (ii) subject to Subsections (3) and (4).

102 (6) Notwithstanding Subsection (1)(b), for taxable years beginning on or after January
103 1, 2001, a taxpayer may not claim a tax credit described in Subsection (1)(b) in a taxable year
104 during which the taxpayer claims or carries forward a tax credit under Section 63N-2-213.

105 (7) A taxpayer may not claim or carry forward a tax credit available under this section
106 for a taxable year during which the taxpayer has claimed the targeted business income tax
107 credit available under Section 63N-2-305.

108 Section 4. Section **59-7-620** is amended to read:

109 **59-7-620. Nonrefundable tax credit for contribution to state Achieving a Better**
110 **Life Experience Program account.**

111 (1) As used in this section:

112 (a) "Account" means an account in a qualified ABLE program where the designated
113 beneficiary of the account is a resident of this state.

114 (b) "Contributor" means a corporation that:

115 (i) makes a contribution to an account; and

116 (ii) receives a statement from the qualified ABLE program itemizing the contribution.

117 (c) "Designated beneficiary" means the same as that term is defined in 26 U.S.C. Sec.
118 529A.

119 (d) "Qualified ABLE program" means the same as that term is defined in Section
120 35A-12-102.

121 (2) A contributor to an account may claim a nonrefundable tax credit as provided in
122 this section.

123 (3) Subject to the other provisions of this section, the tax credit is equal to the product
124 of:

125 (a) [~~5%~~ 4.95%]; and

(b) the total amount of contributions:
(i) the contributor makes for the taxable year; and
(ii) for which the contributor receives a statement from the qualified ABLE program itemizing the contributions.

(4) A contributor may not claim a tax credit under this section:

(a) for an amount of excess contribution to an account that is returned to the contributor; or

(b) with respect to an amount the contributor deducts on a federal income tax return.

(5) A tax credit under this section may not be carried forward or carried back.

Section 5. Section **59-10-104** is amended to read:

59-10-104. Tax basis -- Tax rate -- Exemption.

(1) A tax is imposed on the state taxable income of a resident individual as provided in this section.

(2) For purposes of Subsection (1), for a taxable year, the tax is an amount equal to the product of:

(a) the resident individual's state taxable income for that taxable year; and

(b) [~~4.95%~~] 4.95%.

(3) This section does not apply to a resident individual exempt from taxation under Section 59-10-104.1.

Section 6. Section **59-10-1007** is amended to read:

59-10-1007. Recycling market development zones tax credit.

(1) For taxable years beginning on or after January 1, 1996, a claimant, estate, or trust in a recycling market development zone as defined in Section 63N-2-402 may claim a nonrefundable tax credit as provided in this section.

(a) (i) There shall be allowed a tax credit of [~~5%~~] 4.95% of the purchase price paid for machinery and equipment used directly in:

(A) commercial composting; or

(B) manufacturing facilities or plant units that:

(I) manufacture, process, compound, or produce recycled items of tangible personal property for sale; or

(II) reduce or reuse postconsumer waste material.

(ii) The Governor's Office of Economic Development shall certify that the machinery and equipment described in Subsection (1)(a)(i) are integral to the composting or recycling process:

(A) on a form provided by the commission; and

(B) before a claimant, estate, or trust is allowed a tax credit under this section.

(iii) The Governor's Office of Economic Development shall provide a claimant, estate, or trust seeking to claim a tax credit under this section with a copy of the form described in Subsection (1)(a)(ii).

(iv) The claimant, estate, or trust described in Subsection (1)(a)(iii) shall retain a copy of the form received under Subsection (1)(a)(iii).

(b) There shall be allowed a tax credit equal to 20% of net expenditures up to \$10,000 to third parties for rent, wages, supplies, tools, test inventory, and utilities made by the claimant, estate, or trust for establishing and operating recycling or composting technology in Utah, with an annual maximum tax credit of \$2,000.

(2) The total tax credit allowed under this section may not exceed 40% of the Utah income tax liability of the claimant, estate, or trust prior to any tax credits in the taxable year of purchase prior to claiming the tax credit authorized by this section.

(3) (a) Any tax credit not used for the taxable year in which the purchase price on composting or recycling machinery and equipment was paid may be carried forward against the claimant's, estate's, or trusts's tax liability under this chapter in the three succeeding taxable years until the total tax credit amount is used.

(b) Tax credits not claimed by a claimant, estate, or trust on the claimant's, estate's, or trust's tax return under this chapter within three years are forfeited.

(4) The commission shall make rules governing what information shall be filed with the commission to verify the entitlement to and amount of a tax credit.

(5) (a) Notwithstanding Subsection (1)(a), for taxable years beginning on or after January 1, 2001, a claimant, estate, or trust may not claim or carry forward a tax credit described in Subsection (1)(a) in a taxable year during which the claimant, estate, or trust claims or carries forward a tax credit under Section 63N-2-213.

(b) For a taxable year other than a taxable year during which the claimant, estate, or trust may not claim or carry forward a tax credit in accordance with Subsection (5)(a), a

claimant, estate, or trust may claim or carry forward a tax credit described in Subsection (1)(a):

(i) if the claimant, estate, or trust may claim or carry forward the tax credit in accordance with Subsections (1) and (2); and

(ii) subject to Subsections (3) and (4).

(6) Notwithstanding Subsection (1)(b), for taxable years beginning on or after January 1, 2001, a claimant, estate, or trust may not claim a tax credit described in Subsection (1)(b) in a taxable year during which the claimant, estate, or trust claims or carries forward a tax credit under Section 63N-2-213.

(7) A claimant, estate, or trust may not claim or carry forward a tax credit available under this section for a taxable year during which the claimant, estate, or trust has claimed the targeted business income tax credit available under Section 63N-2-305.

Section 7. Section **59-10-1017** is amended to read:

59-10-1017. Utah Educational Savings Plan tax credit.

(1) As used in this section:

(a) "Account owner" means the same as that term is defined in Section 53B-8a-102.

(b) "Grantor trust" means the same as that term is defined in Section 53B-8a-102.5.

(c) "Higher education costs" means the same as that term is defined in Section 53B-8a-102.5.

(d) "Maximum amount of a qualified investment for the taxable year" means, for a taxable year, the product of ~~5%~~ 4.95% and:

(i) subject to Subsection (1)(d)(iii), for a claimant, estate, or trust that is an account owner, if that claimant, estate, or trust is other than husband and wife account owners who file a single return jointly, the maximum amount of a qualified investment:

(A) listed in Subsection 53B-8a-106(1)(e)(ii); and

(B) increased or kept for that taxable year in accordance with Subsections 53B-8a-106(1)(f) and (g);

(ii) subject to Subsection (1)(d)(iii), for claimants who are husband and wife account owners who file a single return jointly, the maximum amount of a qualified investment:

(A) listed in Subsection 53B-8a-106(1)(e)(iii); and

(B) increased or kept for that taxable year in accordance with Subsections 53B-8a-106(1)(f) and (g); or

219 (iii) for a grantor trust:

220 (A) if the owner of the grantor trust has a single filing status or head of household

221 filing status as defined in Section 59-10-1018, the amount described in Subsection (1)(d)(i); or

222 (B) if the owner of the grantor trust has a joint filing status as defined in Section

223 59-10-1018, the amount described in Subsection (1)(d)(ii).

224 (e) "Owner of the grantor trust" means the same as that term is defined in Section

225 53B-8a-102.5.

226 (f) "Qualified investment" means the same as that term is defined in Section

227 53B-8a-102.5.

228 (2) Except as provided in Section 59-10-1002.2 and subject to the other provisions of

229 this section, a claimant, estate, or trust that is an account owner may claim a nonrefundable tax

230 credit equal to the product of:

231 (a) the amount of a qualified investment made:

232 (i) during the taxable year; and

233 (ii) into an account owned by the claimant, estate, or trust; and

234 (b) ~~5%~~ 4.95%.

235 (3) A claimant, estate, or trust, or a person other than the claimant, estate, or trust, may

236 make a qualified investment described in Subsection (2).

237 (4) A claimant, estate, or trust that is an account owner may not claim a tax credit

238 under this section with respect to any portion of a qualified investment described in Subsection

239 (2) that a claimant, estate, trust, or person described in Subsection (3) deducts on a federal

240 income tax return.

241 (5) A tax credit under this section may not exceed the maximum amount of a qualified

242 investment for the taxable year.

243 (6) A claimant, estate, or trust that is an account owner may not carry forward or carry

244 back the tax credit under this section.

245 (7) A claimant, estate, or trust may claim a tax credit under this section in addition to

246 the tax credit described in Section 59-10-1017.1.

247 Section 8. Section **59-10-1017.1** is amended to read:

248 **59-10-1017.1. Student Prosperity Savings Program tax credit.**

249 (1) As used in this section, "qualified donation" means an amount donated, in

250 accordance with Section 53B-8a-203, to the Student Prosperity Savings Program created in
251 Section 53B-8a-202.

252 (2) A claimant, estate, or trust may claim a nonrefundable tax credit for a qualified
253 donation.

254 (3) The tax credit equals the product of:

255 (a) the qualified donation; and

256 (b) [~~5%~~] 4.95%.

257 (4) A claimant, estate, or trust may not claim a tax credit under this section with
258 respect to any portion of a qualified donation that a claimant, estate, or trust deducts on a
259 federal income tax return.

260 (5) A claimant, estate, or trust may not carry forward or carry back the portion of the
261 tax credit allowed by this section that exceeds the claimant's, estate's, or trust's tax liability for
262 the taxable year in which the claimant, estate, or trust claims the tax credit.

263 (6) A claimant, estate, or trust may claim a tax credit under this section in addition to
264 the tax credit described in Section 59-10-1017.

265 Section 9. Section **59-10-1022** is amended to read:

266 **59-10-1022. Nonrefundable tax credit for capital gain transactions.**

267 (1) As used in this section:

268 (a) (i) "Capital gain transaction" means a transaction that results in a:

269 (A) short-term capital gain; or

270 (B) long-term capital gain.

271 (ii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
272 commission may by rule define the term "transaction."

273 (b) "Commercial domicile" means the principal place from which the trade or business
274 of a Utah small business corporation is directed or managed.

275 (c) "Long-term capital gain" is as defined in Section 1222, Internal Revenue Code.

276 (d) "Qualifying stock" means stock that is:

277 (i) (A) common; or

278 (B) preferred;

279 (ii) as defined by the commission by rule made in accordance with Title 63G, Chapter
280 3, Utah Administrative Rulemaking Act, originally issued to:

281 (A) a claimant, estate, or trust; or
282 (B) a partnership if the claimant, estate, or trust that claims a tax credit under this
283 section:
284 (I) was a partner on the day on which the stock was issued; and
285 (II) remains a partner until the last day of the taxable year for which the claimant,
286 estate, or trust claims a tax credit under this section; and
287 (iii) issued:
288 (A) by a Utah small business corporation;
289 (B) on or after January 1, 2008; and
290 (C) for:
291 (I) money; or
292 (II) other property, except for stock or securities.
293 (e) "Short-term capital gain" is as defined in Section 1222, Internal Revenue Code.
294 (f) (i) "Utah small business corporation" means a corporation that:
295 (A) except as provided in Subsection (1)(f)(ii), is a small business corporation as
296 defined in Section 1244(c)(3), Internal Revenue Code;
297 (B) except as provided in Subsection (1)(f)(iii), meets the requirements of Section
298 1244(c)(1)(C), Internal Revenue Code; and
299 (C) has its commercial domicile in this state.
300 (ii) The dollar amount listed in Section 1244(c)(3)(A) is considered to be \$2,500,000.
301 (iii) The phrase "the date the loss on such stock was sustained" in Sections
302 1244(c)(1)(C) and 1244(c)(2), Internal Revenue Code, is considered to be "the last day of the
303 taxable year for which the claimant, estate, or trust claims a tax credit under this section."
304 (2) For taxable years beginning on or after January 1, 2008, a claimant, estate, or trust
305 that meets the requirements of Subsection (3) may claim a nonrefundable tax credit equal to the
306 product of:
307 (a) the total amount of the claimant's, estate's, or trust's short-term capital gain or
308 long-term capital gain on a capital gain transaction that occurs on or after January 1, 2008; and
309 (b) [~~5%~~] 4.95%.
310 (3) For purposes of Subsection (2), a claimant, estate, or trust may claim the
311 nonrefundable tax credit allowed by Subsection (2) if:

(a) 70% or more of the gross proceeds of the capital gain transaction are expended:

(i) to purchase qualifying stock in a Utah small business corporation; and

(ii) within a 12-month period after the day on which the capital gain transaction occurs;

and

(b) prior to the purchase of the qualifying stock described in Subsection (3)(a)(i), the claimant, estate, or trust did not have an ownership interest in the Utah small business corporation that issued the qualifying stock.

(4) A claimant, estate, or trust may not carry forward or carry back a tax credit under this section.

(5) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules:

(a) defining the term "gross proceeds"; and

(b) prescribing the circumstances under which a claimant, estate, or trust has an ownership interest in a Utah small business corporation.

Section 10. Section **59-10-1023** is amended to read:

59-10-1023. Nonrefundable tax credit for amounts paid under a health benefit plan.

(1) As used in this section:

(a) "Claimant with dependents" means a claimant:

(i) regardless of the claimant's filing status for purposes of filing a federal individual income tax return for the taxable year; and

(ii) who claims one or more dependents under Section 151, Internal Revenue Code, as allowed on the claimant's federal individual income tax return for the taxable year.

(b) "Eligible insured individual" means:

(i) the claimant who is insured under a health benefit plan;

(ii) the spouse of the claimant described in Subsection (1)(b)(i) if:

(A) the claimant files a single return jointly under this chapter with the claimant's spouse for the taxable year; and

(B) the spouse is insured under the health benefit plan described in Subsection (1)(b)(i); or

(iii) a dependent of the claimant described in Subsection (1)(b)(i) if:

(A) the claimant claims the dependent under Section 151, Internal Revenue Code, as allowed on the claimant's federal individual income tax return for the taxable year; and

(B) the dependent is insured under the health benefit plan described in Subsection (1)(b)(i).

(c) "Excluded expenses" means an amount a claimant pays for insurance offered under a health benefit plan for a taxable year if:

(i) the claimant claims a tax credit for that amount under Section 35, Internal Revenue Code:

(A) on the claimant's federal individual income tax return for the taxable year; and

(B) with respect to an eligible insured individual;

(ii) the claimant deducts that amount under Section 162 or 213, Internal Revenue Code:

(A) on the claimant's federal individual income tax return for the taxable year; and

(B) with respect to an eligible insured individual; or

(iii) the claimant excludes that amount from gross income under Section 106 or 125, Internal Revenue Code, with respect to an eligible insured individual.

(d) (i) "Health benefit plan" is as defined in Section 31A-1-301.

(ii) "Health benefit plan" does not include equivalent self-insurance as defined by the Insurance Department by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(e) "Joint claimant with no dependents" means a husband and wife who:

(i) file a single return jointly under this chapter for the taxable year; and

(ii) do not claim a dependent under Section 151, Internal Revenue Code, on the husband's and wife's federal individual income tax return for the taxable year.

(f) "Single claimant with no dependents" means:

(i) a single individual who:

(A) files a single federal individual income tax return for the taxable year; and

(B) does not claim a dependent under Section 151, Internal Revenue Code, on the single individual's federal individual income tax return for the taxable year;

(ii) a head of household:

(A) as defined in Section 2(b), Internal Revenue Code, who files a single federal

individual income tax return for the taxable year; and

(B) who does not claim a dependent under Section 151, Internal Revenue Code, on the head of household's federal individual income tax return for the taxable year; or

(iii) a married individual who:

(A) does not file a single federal individual income tax return jointly with that married individual's spouse for the taxable year; and

(B) does not claim a dependent under Section 151, Internal Revenue Code, on that married individual's federal individual income tax return for the taxable year.

(2) Subject to Subsection (3), and except as provided in Subsection (4), for taxable years beginning on or after January 1, 2009, a claimant may claim a nonrefundable tax credit equal to the product of:

(a) the difference between:

(i) the total amount the claimant pays during the taxable year for:

(A) insurance offered under a health benefit plan; and

(B) an eligible insured individual; and

(ii) excluded expenses; and

(b) ~~5%~~ 4.95%.

(3) The maximum amount of a tax credit described in Subsection (2) a claimant may claim on a return for a taxable year is:

(a) for a single claimant with no dependents, \$300;

(b) for a joint claimant with no dependents, \$600; or

(c) for a claimant with dependents, \$900.

(4) A claimant may not claim a tax credit under this section if the claimant is eligible to participate in insurance offered under a health benefit plan maintained and funded in whole or in part by:

(a) the claimant's employer; or

(b) another person's employer.

(5) A claimant may not carry forward or carry back a tax credit under this section.

Section 11. Section **59-10-1028** is amended to read:

59-10-1028. Nonrefundable tax credit for capital gain transactions on the exchange of one form of legal tender for another form of legal tender.

(1) As used in this section:

(a) "Capital gain transaction" means a transaction that results in a:

(i) short-term capital gain; or

(ii) long-term capital gain.

(b) "Long-term capital gain" is as defined in Section 1222, Internal Revenue Code.

(c) "Long-term capital loss" is as defined in Section 1222, Internal Revenue Code.

(d) "Net capital gain" means the amount by which the sum of long-term capital gains and short-term capital gains on a claimant's, estate's, or trust's transactions from exchanges made for a taxable year of one form of legal tender for another form of legal tender exceeds the sum of long-term capital losses and short-term capital losses on those transactions for that taxable year.

~~[(e) "Short-term capital loss" is as defined in Section 1222, Internal Revenue Code.]~~

~~[(f)]~~ (e) "Short-term capital gain" is as defined in Section 1222, Internal Revenue Code.

(f) "Short-term capital loss" is as defined in Section 1222, Internal Revenue Code.

(2) Except as provided in Section 59-10-1002.2, for taxable years beginning on or after January 1, 2012, a claimant, estate, or trust may claim a nonrefundable tax credit equal to the product of:

(a) to the extent a net capital gain is included in taxable income, the amount of the claimant's, estate's, or trust's net capital gain on capital gain transactions from exchanges made on or after January 1, 2012, for a taxable year, of one form of legal tender for another form of legal tender; and

(b) ~~[5%]~~ 4.95%.

(3) A claimant, estate, or trust may not carry forward or carry back a tax credit under this section.

(4) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules to implement this section.

Section 12. Section **59-10-1035** is amended to read:

59-10-1035. Nonrefundable tax credit for contribution to state Achieving a Better Life Experience Program account.

(1) As used in this section:

(a) "Account" means an account in a qualified ABLE program where the designated

436 beneficiary of the account is a resident of this state.

437 (b) "Contributor" means a claimant, estate, or trust that:

438 (i) makes a contribution to an account; and

439 (ii) receives a statement from the qualified ABLE program itemizing the contribution.

440 (c) "Designated beneficiary" means the same as that term is defined in 26 U.S.C. Sec.

441 529A.

442 (d) "Qualified ABLE program" means the same as that term is defined in Section

443 35A-12-102.

444 (2) A contributor to an account may claim a nonrefundable tax credit as provided in
445 this section.

446 (3) Subject to the other provisions of this section, the tax credit is equal to the product
447 of:

448 (a) [~~5%~~] 4.95%; and

449 (b) the total amount of contributions:

450 (i) the contributor makes for the taxable year; and

451 (ii) for which the contributor receives a statement from the qualified ABLE program
452 itemizing the contributions.

453 (4) A contributor may not claim a tax credit under this section:

454 (a) for an amount of excess contribution to an account that is returned to the
455 contributor; or

456 (b) with respect to an amount the contributor deducts on a federal income tax return.

457 (5) A tax credit under this section may not be carried forward or carried back.

458 Section 13. Section **59-10-1036** is amended to read:

459 **59-10-1036. Nonrefundable tax credit for military survivor benefits.**

460 (1) As used in this section:

461 (a) "Dependent child" means the same as that term is defined in 10 U.S.C. Sec. 1447.

462 (b) "Reserve components" means the same as that term is described in 10 U.S.C. Sec.
463 10101.

464 (c) "Surviving spouse" means the same as that term is defined in 10 U.S.C. Sec. 1447.

465 (d) "Survivor benefits" means the amount paid by the federal government in
466 accordance with 10 U.S.C. Secs. 1447 through 1455.

(2) A surviving spouse or dependent child may claim a nonrefundable tax credit for survivor benefits if the benefits are paid due to:

(a) the death of a member of the armed forces or reserve components while on active duty; or

(b) the death of a member of the reserve components that results from a service-connected cause while performing inactive duty training.

(3) The tax credit described in Subsection (2) is equal to the product of:

(a) the amount of survivor benefits that the surviving spouse or dependent child received during the taxable year; and

(b) ~~5%~~ 4.95%.

(4) The tax credit described in Subsection (2):

(a) may not be carried forward or carried back; and

(b) applies to a taxable year beginning on or after January 1, 2017.

Section 14. Retrospective operation.

This bill has retrospective operation for a taxable year beginning on or after January 1, 2019.